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# Joint Commission on Technology and Science

## Virginia Consumer Data Protection Act Work Group

July 12, 2021, at 2:00 p.m.

Pocahontas Building, House Committee Room

<http://dls.virginia.gov/commission/jcots.htm>

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The Virginia Consumer Data Protection Act Work Group (the Work Group) of the Joint Commission on Technology and Science (the Joint Commission) met electronically with Delegate C.E. Cliff Hayes, Jr., chair, presiding.<sup>1</sup> The meeting began with introductions and opening remarks followed by presentations and discussion. Materials presented at the meeting are accessible through the [Joint Commission's meetings webpage](#).

### Presentation: Attorney General Presentation

*Samuel Towell, Deputy Attorney General, Office of the Attorney General*

Mr. Towell presented on the Virginia Consumer Data Protection Act (the VCDPA) from the perspective of the Office of the Attorney General (OAG). Enforcement issues identified by the Attorney General include the ability to cure; funding; damages, penalties, expenses, and fees; and separating the educational campaign from the enforcement within the Office of the Attorney General. Mr. Towell noted that the VCDPA cannot fix issues such as the leaking of data after a breach and the sale of such data to a third party. A company seeking to address such a violation will need to remedy the architecture that allowed the breach to occur within 30 days, he said. He also noted that funds to enforce the VCDPA are currently anemic. Members of the Work Group responded by recommending submitting a budget amendment during the next session of the General Assembly. Mr. Towell concluded by outlining the following recommendations on behalf of the OAG:

- Fund two attorney and two staff positions through general funds;
- Replace the Consumer Privacy Fund with existing general funds;
- Allow the OAG to pursue actual damages to consumers, to the extent they exist;
- Employ "ability to cure" for those violations in which a cure is possible; and
- Involve OAG as a piece, but not the lead, of an education campaign.

### Public Comment

Dr. Maureen Mahoney, a senior analyst at Consumer Reports, Inc., requested that the Work Group consider requiring companies to honor browser privacy signals as a global opt out as a single step for consumers (similar to the California Consumer Privacy Act); a sunset on the right to cure to prevent companies from exploiting this provision; and continuing to close loopholes in

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<sup>1</sup> **Members Present:** Delegate C.E. Cliff Hayes, Jr., Senator David W. Marsden (virtual), Secretary Grindley Johnson, Gil Bland (virtual), Evan Feinman, Stacey Gray (virtual), Jim Halpert (virtual), Keir Lamont, Rafi Martina (virtual), Samuel Towell, Dana Wiggins

**Members Absent:** None

the law as they arise, similar to California's ongoing efforts to strengthen the California Consumer Privacy Act.

### **Next Meeting**

The next meeting will be held in person on August 17, 2021, at 2:00 p.m., in Richmond.

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For more information, see the [\*Joint Commission's website\*](#) or contact the Division of Legislative Services staff:

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